

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08cv474-3-W

EZEQUIEL JAIMES BUSTOS,	)	<b><u>ORDER</u></b>
	)	
Petitioner,	)	
	)	
v.	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	
	)	

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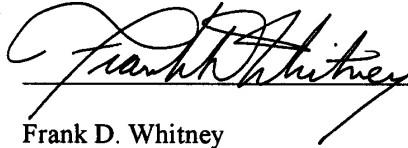
**THIS MATTER** comes before the Court on “Petitioner’s Dismiss Without Prejudice to Filed Application to Pursuant to Tittle 28 U.S.C. § 2255 (Habeas Corpus) filed January 13, 2009 (Doc. No. 3.)

In his Motion, Petitioner is requesting that this Court dismiss his § 2255 Motion filed in this Court on October 14, 2008, (doc. no. 1), because the Fourth Circuit appointed him counsel in order to pursue his direct appeal. (Motion at 2.) The Court will deny Petitioner’s Motion as moot as this Court has already granted Petitioner relief by Order dated October 16, 2008 (Doc. No. 2.) In this Court’s October 16, 2008 Order, the undersigned vacated Petitioners original Judgment in his criminal case and directed that a new Judgment be entered from which Petitioner could appeal his conviction and/or sentence.

**THEREFORE, IT IS HEREBY ORDERED** that Petitioner’s Motion to Dismiss is DENIED as moot.

**SO ORDERED.**

Signed: January 23, 2009

  
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Frank D. Whitney  
United States District Judge  
